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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,682	01/16/2004	Tracy E. Thieret	D/A2179	8583
41030 7590 07/03/2008 ORTIZ & LOPEZ, PLLC P. O. BOX 4484 ALBUQUERQUE, NM 87196-4484				
EXAMINER				
CONTINO, PAUL F				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/759,682

Applicant(s)

THERET ET AL.

Examiner

PAUL F. CONTINO

Art Unit

2114

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25, 30, 31, 34-36 and 38-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25, 30, 31, 34-36 and 38-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION: Final Rejection

Response to Arguments

1. Applicant's arguments filed April 11, 2008, have been fully considered but they are not persuasive.

The Examiner respectfully disagrees with the Applicants arguments in the Remarks concerning the application of the prior art reference Bajpai as failing to teach of sensors, machine location, and operational history.

With regards to the specific argument concerning the Bajpai reference as failing to teach of a "sensor", the Examiner, in a broadest reasonable interpretation, finds that any means of determining, or "sensing", a fault makes that means by default a "sensor". The Applicant argues in the last sentence of page 9 of the Remarks that claim 25 includes the limitation of *physical* sensors. In response to Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., physical sensors) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

With regards to the specific argument concerning the Bajpai reference as failing to teach of a machine location, the Examiner directs the Applicant to the statement on page 10 in line 6 of Bajpai which discloses "I/O address information". This address is a machine location.

With regards to the specific argument concerning the Bajpai reference as failing to teach of an operational history, the Examiner directs the Applicant to the statement on page 10 in lines 7-8 of Bajpai which discloses "information ... regarding symptoms and characteristics" of a problem/fault. This information describes how the machine itself has been operating, i.e. an operational history.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 25, 30, 31, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Bajpai (WO 97/15009).

As in claim 25, Bajpai discloses a method of automating customer assistance associated with a machine, comprising the steps of:

said machine automatically recognizing a malfunction using sensors and software co-located with said machine (*page 5 lines 9-11, where local diagnostic element 28 is interpreted as a machine*);

said machine automatically collecting machine data including machine identification, customer identification, machine location, diagnostics/error codes, operational history and

operational status, in a database associated with said machine (*page 10 lines 3-9, where the files and information collected are interpreted as inherently being stored in some type of a database: hardware identification information, user information, I/O address information, symptoms/characteristics for the latter three elements, respectively*);

said machine automatically creating a document containing said machine data (*page 10 lines 3-9 and page 11 lines 4-6, where the files and information are collected as a packet [i.e. document]*);

said machine automatically transmitting said document over a data network to a remote enterprise from said machine utilizing communication equipment associated with said machine (*Figs. 1 and 6; page 10 lines 3-4*);

processing said document at said remote enterprise (*page 11 lines 4-14, where diagnostic element 50 is interpreted as a part of a remote enterprise; Figure 1 illustrates a remote enterprise as the collection of remote diagnostic workstation 12, engineer's workstation 14, and engineer 31*); and

said remote enterprise automatically proceeding with at least one of the following (*page 9 lines 24-25, page 10 lines 10-12, and page 11 lines 12-14*):

I) scheduling initiation of a telephone call by enterprise help-desk facility personnel to a customer associated with said machine to provide customer support and corrective action (*Figure 1 illustrates help-desk personnel 31 on a telephone; page 11 lines 25-26 and page 13 line 2, where a telephone conversation between personnel and customer is implied*).

II) transmitting corrective action over said data network directly to said machine (*page 11 lines 9-17*);

III) escalating said fault analysis to an advanced customer support unit within said remote enterprise (*page 11 line 18*).

As in claim 30, Bajpai discloses said document is transmitted to said remote enterprise concurrently with a customer initiating communication telephonically with said remote enterprise (*page 10 lines 3-12, where it is interpreted that the customer [user workstation 10] is communicating with the remote enterprise [workstation 12] via telephone link inherently in order to transmit the document [packet]*).

As in claim 31, Bajpai discloses said remote enterprise processes said document prior to communicating with a customer associated with said machine (*page 11 lines 15-20, where the downloading/communicating of information by the remote enterprise is done after processing of the document*).

As in claim 34, Bajpai discloses interacting telephonically with a customer associated with said machine after said document is processed at said remote enterprise (*page 10 lines 3-12 and page 11 lines 15-20, where the downloading/communicating of information by the remote enterprise via a telephonic link is done after processing of the document*).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 36 and 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bajpai in view of Sesek et al. (*US PGPub 2005/0097405*).

As in claim 36, Bajpai teaches a method of automating customer assistance associated with a machine, comprising the steps of:

said machine automatically recognizing a malfunction using sensors and software co-located with said machine (*page 5 lines 9-11, where local diagnostic element 28 is interpreted as a machine*);

said machine automatically collecting machine data including machine identification, customer identification, machine location, diagnostics/error codes, operational history and operational status, in a database associated with said machine (*page 10 lines 3-9, where the files and information collected are interpreted as inherently being stored in some type of a database: hardware identification information, user information, I/O address information, symptoms/characteristics for the latter three elements, respectively*);

said machine automatically creating a document containing said machine data (*page 10 lines 3-9 and page 11 lines 4-6, where the files and information are collected as a packet [i.e. document[]*);

said machine automatically transmitting said document over a data network to a remote enterprise from said machine utilizing communication equipment associated with said machine (*Figs. 1 and 6; page 10 lines 3-4*);

processing said document at said remote enterprise (*page 11 lines 4-14, where diagnostic element 50 is interpreted as a part of a remote enterprise; Figure 1 illustrates a remote enterprise as the collection of remote diagnostic workstation 12, engineer's workstation 14, and engineer 31*); and

said remote enterprise automatically proceeding with at least one of the following (*page 9 lines 24-25, page 10 lines 10-12, and page 11 lines 12-14*):

I) scheduling initiation of a telephone call by enterprise help-desk facility personnel to a customer associated with said machine to provide customer support and corrective action (*Figure 1 illustrates help-desk personnel 31 on a telephone; page 11 lines 25-26 and page 13 line 2, where a telephone conversation between personnel and customer is implied*).

II) transmitting corrective action over said data network directly to said machine (*page 11 lines 9-17*);

III) escalating said fault analysis to an advanced customer support unit within said remote enterprise (*page 11 line 18*).

However, Bajpai fails to teach of a photocopying machine. Sesek et al. teaches of a photocopying machine (*Fig. 1 #102; paragraph [0018]*).

It would have been obvious to a person skilled in the art at the time the invention was made to have included the photocopying machine as taught by Sesek et al. in the invention of Bajpai. This would have been obvious because a photocopying machine as taught by Sesek et al. is a common computer that may also require assistance in diagnostics in order to properly remedy a problem via the invention of Bajpai.

As in claim 38, Bajpai discloses said document is transmitted to said remote enterprise concurrently with a customer initiating communication telephonically with said remote enterprise (*page 10 lines 3-12, where it is interpreted that the customer [user workstation 10] is communicating with the remote enterprise [workstation 12] via telephone link inherently in order to transmit the document [packet]*).

As in claim 39, Bajpai discloses processing said document at said remote enterprise utilizing a remote database of corrective actions (*Figs. 1 and 2; page 10 lines 3-27*).

As in claim 40, Bajpai discloses said document is processed at said remote enterprise for fault analysis of said machine (*page 11 lines 5-9*).

As in claim 41, Bajpai discloses said remote enterprise processes said document prior to communicating with a customer associated with said machine (*page 11 lines 15-20, where the downloading/communicating of information by the remote enterprise is done after processing of the document*).

As in claim 42, Bajpai discloses interacting telephonically with a customer associated with said machine after said document is processed at said remote enterprise (*page 10 lines 3-12 and page 11 lines 15-20, where the downloading/communicating of information by the remote enterprise via a telephonic link is done after processing of the document*).

As in claim 43, Bajpai discloses automatically requesting additional information from said machine by said remote enterprise over said data network (*page 11 lines 10-14*).

* * *

4. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bajpai in view of Pfeiffer et al. (*US PGPub 2004/0078722*).

As in claim 35, Bajpai discloses a document for transmission over a network. However, Bajpai fails to teach of formatting the document in an object description language. Pfeiffer et al. teaches of formatting troubleshooting information in XML before sending to a support enterprise (*Abstract, paragraph [0007]*).

It would have been obvious to a person skilled in the art at the time the invention was made to have included the XML formatting as taught by Pfeiffer et al. in the invention of Bajpai. This would have been obvious because XML allows for a more comprehensive means of troubleshooting in a computer system (*paragraphs [0005]-[0006] and [0016]*).

* * *

5. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bajpai in view of Seseek et al., further in view of Pfeiffer et al.

As in claim 44, the combined invention of Bajpai and Seseek et al. discloses a document for transmission over a network. However, the combined invention of Bajpai and Seseek et al. fails to teach of formatting the document in an object description language. Pfeiffer et al. teaches of formatting troubleshooting information in XML before sending to a support enterprise (*Abstract, paragraph [0007]*).

It would have been obvious to a person skilled in the art at the time the invention was made to have included the XML formatting as taught by Pfeiffer et al. in the combined invention of Bajpai and Seseek et al. This would have been obvious because XML allows for a more comprehensive means of troubleshooting in a computer system (*paragraphs [0005]-[0006] and [0016]*).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL F. CONTINO whose telephone number is (571)272-3657. The examiner can normally be reached on Monday-Friday 9:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott T Baderman/
Supervisory Patent Examiner, Art Unit
2114

PFC
6/25/2008